

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-07/09-400
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, reducing her Food Stamps to zero.¹ The issue is whether the Department accurately determined the amount of petitioner's Food Stamps. The petitioner does not dispute the gross income and rent figures used by the Department in their calculations.

FINDINGS OF FACT

1. The petitioner lives in a five person household. The household includes petitioner, her son, her partner, and her partner's two children.

2. Petitioner's son is disabled and receives Supplemental Security Income (SSI) disability benefits. His gross monthly SSI is \$726.04. His SSI is being recouped for an overpayment, and he actually receives \$653.04 per month.

¹Petitioner met the gross income test but not the net income test. Reducing her Food Stamps to zero rather than terminating Food Stamps keeps petitioner's family eligible for other programs such as the school lunch program.

SSI is considered unearned income for Food Stamps. The Department is using the gross monthly amount for its calculations.

3. Petitioner's son is authorized by the Department of Disabilities, Aging and Independent Living to receive services in the home. These services are provided by the partner's oldest child, C.S., who turned 18 years old within the past year. C.S. is paid \$860 per month for her services.

4. Petitioner was eligible for \$668 per month in Food Stamps when the only income to the household included her son's SSI and C.S.'s wages.

5. Both petitioner and her partner now receive unemployment compensation. Petitioner receives \$343 per week or \$1,474.90 per month; her partner receives \$374 per week or \$1,608.20 per month. Unemployment compensation is considered unearned income.

6. On July 2, 2009, the Department issued a Notice of Decision to petitioner that her Food Stamps would be reduced to zero effective August 1, 2009 because her household's income had increased and her shelter allowance had decreased. The Notice of Decision explained that the household's income was less than the rules allow but too high for benefits. The petitioner's countable income of \$4,248.71 exceeds the net

monthly limits of \$2,067 for a five person household. The Department correctly applied the earnings deduction and the standard deduction in their calculations. They applied a shelter deduction in calculations that included the gross monthly SSI.

7. The petitioner filed a request for fair hearing on July 23, 2009. A fair hearing was held on August 13, 2009. The petitioner questions whether C.S.'s wages should be counted, whether the Department should use the net SSI amount, and the amount of the shelter allowance.

ORDER

The Department's decision is affirmed.

REASONS

The Food Stamp Program was created to combat hunger and malnutrition among low income households. Food Stamp Manual § 271.1. The amount of Food Stamps a household receives is based upon a complex formula that is set out in the Food Stamp Manual (FSM) and that reflects the level of federal funding for the Food Stamp Program. FSM § 273.9.

This formula includes all earnings except for those earnings that are specifically excluded. FSM §§ 273.9(b) and (c). The exclusions in FSM § 273.9(c) do not apply to C.S.'s

wages. In terms of SSI, a PP&D facing page 273.9b 3 specifically excludes the amount of the SSI overpayment from income. Petitioner is correct that the Department should only consider her son's net SSI in their determinations.² However, using the net SSI amount does not bring the household within the income figures for receipt of Food Stamps.

Changes to a household's income or certain expenses trigger a recalculation of Food Stamp benefits. In petitioner's case, her household income increased when she and her partner started to receive unemployment compensation benefits.

Petitioner questioned whether the reduction to her shelter allowance was correct. Understanding the impact of the shelter allowance is difficult. Calculating the shelter allowance is tied to the household's net income. The shelter/utility allowance is determined by (a) adding the rent to the standard utility allowance, and (b) subtracting an amount equal to 50% of the household's net income. FSM § 273.9(d)(5)(i). Even correcting for the treatment of SSI, the petitioner's countable income remains above the threshold

²The Department should relook at their calculations for the previous twelve months to determine whether an underpayment occurred.

for receipt of Food Stamps or \$2,067 for a household of five.
P-2590D.

As a result, the Department's decision is affirmed. 3
V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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